

Message Text

LIMITED OFFICIAL USE

PAGE 01 STATE 117431

62

ORIGIN EB-07

INFO OCT-01 EUR-12 ISO-00 CIAE-00 COME-00 DODE-00 DOTE-00

FMC-01 INR-07 NSAE-00 SAL-01 CG-00 DLOS-04 OES-06

STR-04 L-03 SAM-01 XMB-02 AID-05 TRSE-00 /054 R

DRAFTED BY EB/TCA/MA:REJOHE:EW

APPROVED BY EB/TCA/MA:RKBANK

FMC:RSHREVES (PARA 4)

MARAD:RBOURDON (PARA 6)

EUR/WE:WPKELLY

STR:SCOFFIELD (PARA 5)

EB/STA:MGOLDMAN (PARA 5)

----- 102334

R 130639Z MAY 76

FM SECSTATE WASHDC

TO AMEMBASSY LISBON

LIMITED OFFICIAL USE STATE 117431

E.O. 11652: N/A

TAGS: EWWT, ETRD, PFOR, PO

SUBJECT: PROPOSED LAW TO PROTECT PORTUGUESE MERCHANT FLEET

REF: LISBON 3065

1. DEPARTMENT (EB/TCA/MA) HAS, WITHIN THE PAST WEEK, RECEIVED SKETCHY BACKGROUND REPORT FROM AMERICAN EXPORT LINES OFFICIAL REGARDING CONTENTS REPORTED IN REFTEL. OTHER U.S.-FLAG CARRIERS, I.E. U.S. LINES AND SEA-LAND, SERVING THE PORTUGUESE PORTS OF LEIXOES, LISBON AND OPORTO, CAN BE EXPECTED TO ALSO PROTEST THE DRAFT LAW AND ITS POTENTIAL DISCRIMINATORY EFFECT AGAINST U.S.-FLAG CARRIERS.

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 117431

2. REQUEST EMBASSY POUCH TEXT (ENGLISH VERSION IF AVAIL-

ABLE) OF DRAFT LAW, ATTN:EB/TCA/MA. ALSO REQUEST UPDATE AS NECESSARY ON STATUS OF DRAFT LAW AND CONTINUED REACTION BY AFFECTED PARTIES.

3. IN ORDER TO AVOID MISUNDERSTANDINGS WITH THE GOP, EMBASSY MAY WISH TO DISCUSS INFORMALLY WITH PORTUGUESE OFFICIALS THE BILATERAL PROBLEMS WHICH MIGHT ARISE SHOULD DISCRIMINATORY PRACTICES BE FOUND TO EXIST, AS MANIFESTED

IN THE FINAL VERSION OF A LAW. THESE INCLUDE A NUMBER OF OFFSETTING MEASURES PROVIDED FOR UNDER EXISTING U.S. LEGISLATION, I.E., ACTION BY THE FMC UNDER SEC. 19 OF THE MERCHANT MARINE ACT, 1920; ACTION UNDER SEC. 301, 1974 TRADE ACT; AND/OR WITHDRAWAL OF EXIMBANK WAIVERS BY THE MARITIME ADMINISTRATION.

4. THE FMC IS EMPOWERED BY SECTION 19 TO TAKE ACTION, UNDER ITS REGULATIONS, TO MEET "CONDITIONS UNFAVORABLE TO SHIPPING IN THE FOREIGN TRADE OF THE UNITED STATES." ASPECTS OF PARAS. 2(B), (1) AND (2) REFTEL COULD POSSIBLY BE VIEWED AS DISCRIMINATORY. NORMALLY, FMC ACTIONS TO MEET CONDITIONS UNFAVORABLE TO SHIPPING IN THE FOREIGN TRADE OF THE UNITED STATES ARE TRIGGERED BY COMPLAINTS BY "INTERESTED PARTIES". SUCH ACTIONS COULD INCLUDE LIMITATION OF PORTUGUESE-FLAG SAILINGS TO AND FROM THE U.S. AND SUSPENSION IN WHOLE OR IN PART OF ANY OF THE TARIFFS FILED BY PORTUGUESE LINES WITH THE FMC. FMC ACTION OUTLINED ABOVE WOULD NOT BE IMMEDIATE, BUT WE WOULD EXPECT THAT SHOULD U.S. SHIPPERS OR OPERATORS FILE COMPLAINTS WITH THE FMC, IT WOULD REQUEST THE DEPARTMENT TO RESOLVE THE DISCRIMINATORY SITUATION DIPLOMATICALLY, USUALLY WITHIN 60 DAYS. THE FMC WOULD, AT THE SAME TIME, PROVIDE DRAFT REGULATIONS SPECIFYING FMC ACTION TO MEET CONDITIONS UNFAVORABLE TO SHIPPING IN THE FOREIGN TRADE OF THE UNITED STATES. EMBASSY SHOULD BE AWARE THAT WHILE ABOVE LIKELY WOULD BE THE CASE, FMC IS NOT REQUIRED TO ASK FOR DEPARTMENT'S DIPLOMATIC ASSISTANCE IN RESOLVING DISPUTES BEFORE PUBLICATION OF REGULATIONS DESIGNED TO EQUALIZE TREATMENT OF CARRIERS IN A TRADE.

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 STATE 117431

5. ANOTHER DISTINCT POSSIBILITY IS THAT A U.S. LINE OR OTHER INTERESTED PARTY MIGHT BRING A COMPLAINT BEFORE THE SPECIAL TRADE REPRESENTATIVE (STR) PURSUANT TO SECTION 301, 1974 TRADE ACT. UNDER SECTION 301, THE PRESIDENT IS EXPLICITLY AUTHORIZED TO RETALIATE AGAINST FOREIGN COUNTRIES WHICH IMPOSE 'NJUSTIFIA,LE OR UNREASONABLE RESTRICTIONS AGAINST U.S. COMMERCE AND SERVICES. DISCRIMINATION AGAINST U.S. SERVICES INCLUDES,

BUT IS NOT LIMITED TO, DISCRIMINATION AGAINST U.S. SHIPPING, AVIATION, AND INSURANCE INDUSTRIES.

6. ADDITIONALLY, ALTHOUGH UNDER LAW 100 PERCENT OF ALL EXIMBANK-FINANCED CARGOES MUST BE SHIPPED ON U.S.-FLAG VESSELS, THE MARITIME ADMINISTRATION (USDOC) MAY, UPON REQUEST, GRANT WAIVERS WHICH WOULD PERMIT UP TO 50 PERCENT OF SUCH CARGO TO BE SHIPPED ON THE FLAG VESSELS OF THE RECIPIENT STATE SO LONG AS THAT STATE DOES NOT

DISCRIMINATE AGAINST U.S.-FLAG VESSELS. TO DATE, ALTHOUGH PORTUGAL HAS NOT REQUESTED ANY WAIVERS ON THE 11 MILLION DOLLARS OF OUTSTANDING EXIMBANK-FINANCED CARGOES, REFUSAL TO GRANT WAIVERS COULD ENSUE SHOULD PORTUGAL SEEK SUCH WAIVERS AND IF DISCRIMINATION IS FOUND TO EXIST.

7. EMBASSY REQUESTED IN ITS UPDATE TO INFORM DEPARTMENT OF GOP REACTION TO ABOVE. KISSINGER

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: MARITIME LAW, CARGO SHIPS
Control Number: n/a
Copy: SINGLE
Draft Date: 13 MAY 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: saccheem
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE117431
Document Source: CORE
Document Unique ID: 00
Drafter: REJOHE:EW
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760185-0946
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760557/aaaabwyp.tel
Line Count: 134
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 LISBON 3065
Review Action: RELEASED, APPROVED
Review Authority: saccheem
Review Comment: n/a
Review Content Flags:
Review Date: 04 MAY 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <04 MAY 2004 by BoyleJA>; APPROVED <31 AUG 2004 by saccheem>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: PROPOSED LAW TO PROTECT PORTUGUESE MERCHANT FLEET
TAGS: EWWT, ETRD, PFOR, PO, US
To: LISBON
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006